Exhibit No. 4 COMMITTEE

Date 4-27-11

Amendments to House Bill No. 604 Reference Copy

For the Senate Free Conference Committee

Prepared by Pat Murdo April 25, 2011 (10:54am)

1. Title, page 1, line 11.

Strike: "THE GENERAL FUND AND"

Insert: "WITHIN"

2. Title, page 1, line 12. Following: "39-71-2323,"
Insert: "39-71-2330,"

3. Page 2, lines 10 through 12.

Strike: subsection (1) in its entirety

Insert: "(1) By June 30, 2011, the state fund shall transfer \$2
 million to the old state fund account from the amounts
 listed in either subsection (2)(a)(i) or (2)(a)(ii) or a

combination of both."

4. Page 2, line 13.

Strike: "BY AUGUST 12, 2012"
Insert: "on an as-needed basis"

Strike: "FROM ITS SURPLUS"

5. Page 2, line 14. Following: "AMOUNT"

Strike: "OF THE OUTSTANDING LIABILITY"

6. Page 2, line 16.

Strike: "PAID BETWEEN FISCAL YEAR 1999 AND FISCAL YEAR"

Insert: "accrued prior to May 9,"

7. Page 2, line 18.

Strike: "AS OF JUNE 30, 2012,"

8. Page 2, lines 20 through 21. **Strike:** the first "THE" on line 20

Insert: "Using an analysis of the most recent financial statement

reported by the state fund as of June 30 of the even-

numbered year of the biennium and the most recent report of

the state fund's independent actuary, the"

Following: "DETERMINE THE" on line 20

Strike: "OUTSTANDING" on line 20 through "LIABILITY OF" on line 21

Insert: "amount to be transferred to"

9. Page 2, line 21. Following: "ACCOUNT"

Strike: "AS REPORTED IN THE FINANCIAL STATEMENTS AS OF JUNE 30, 2012,"

Insert: "that is considered necessary to meet obligations of the
 old state fund account through the next biennium"

10. Page 2.

Following: line 22

Insert: "(3) For as long as the amount in subsection (2)(a)(i) or (2)(a)(ii) or a combination of both is sufficient to meet the obligations of the old state fund account, the state fund shall, in each biennium, transfer to the old state fund account an amount considered necessary to meet the obligations of the old state fund account, as provided in this section. The state fund shall notify the legislative fiscal analyst when the state fund determines the combination of funds listed in subsection (2)(a)(i) or (2)(a)(ii) is expected to be insufficient in the next biennium to meet the obligations of the old state fund account in that biennium."

Renumber: subsequent subsection

11. Page 5, line 12.
Strike: ", and does"

Insert: ". The transfer may"

12. Page 5.

Following: line 13

Insert: "(3) For the purposes of this section, the term
 "obligations of the state fund" includes the obligation to
 meet the old state fund account liability by a fund
 transfer, but only to the extent provided for in [section
 31."

13. Page 6, lines 10 through 11.

Strike: "excess" on line 10 through "board" on line 11
Insert: "transfer provisions of [section 3] have been met"

14. Page 6.

Following: line 14

Insert: "Section 10. Section 39-71-2330, MCA, is amended to read:

"39-71-2330. Rate setting -- surplus -- multiple rating tiers. (1) (a) The board has the authority to establish the rates to be charged by the state fund for insurance. The board shall engage the services of an independent actuary who is a member in

good standing with the American academy of actuaries to develop and recommend actuarially sound rates.

- (b) Rates must be set at amounts sufficient, when invested, to carry the estimated cost of all claims to maturity, to meet the reasonable expenses of conducting the business of the state fund, and to amass and maintain an excess of surplus over the amount produced by the national association of insurance commissioners' risk-based capital requirements for a casualty insurer. For the purposes of this subsection (1)(b), investment income based on rates prior to May 9, 2003, is subject to use to meet the obligations of 39-71-2320(3).
- (2) (a) Because surplus is desirable in the insurance business, the board shall annually determine the level of surplus that must be maintained by the state fund pursuant to this section, but shall maintain the greater of:
- (i) a minimum surplus of 25% of annual earned premium; or (ii) a reserve-to-surplus ratio of 2.5 to 1.
- (b) The state fund shall use the amount of the surplus above the risk-based capital requirements to secure the state fund against various risks inherent in or affecting the business of insurance and not accounted for or only partially measured by the risk-based capital requirements.
- (c) For the purposes of this subsection (2) and subject to the limits provided for in [section 3], the legislature has determined that the old state fund account liability is a risk for which surplus funds may be used if those funds do not include premiums paid for claims on injuries that occur on or after July 1, 1990.
- (3) The board may implement multiple rating tiers for classifications that take into consideration losses, premium size, and other factors relevant in placing an employer within a rating tier."

{Internal References to 39-71-2330:

39-71-2311 a 39-71-2323 a 39-71-2323a 39-71-2352 a}"

Renumber: subsequent sections

15. Page 14.

Following: line 12

Insert: "NEW SECTION. Section 20. Saving clause. (1) [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

(2) The provisions of [sections 3 through 11] do not affect premiums earned on contracts entered into on or after May 9, 2003."

Renumber: subsequent sections

16. Page 14, line 19.

Strike: "12"
Insert: "13"

Explanation - This amendment seeks to address some of the technical concerns in the fiscal note and to change from a single lump-sum transfer to the old account to a transfer on an asneeded basis. The money would remain in the State Fund. There would be no general fund transfer until State Fund's investment earnings accrued before May 9, 2003, are depleted or there is a reserve-to-surplus ratio of greater than 2.5-to-1.

Technical note #1 - State Fund purposes include risk and obligation for old fund, which is an account within the State Fund. Reinforced concept within Amendments #12 and #14.

Technical note #2 - Contract language that says money going into the State Fund is to be used only as provided in 39-71-2320, went into effect for contracts issued on or after May 9, 2003, the effective date of SB 360. The contract language mentions operations and obligations of the State Fund. Amendment #12 includes language saying the old fund account is an obligation of the State Fund. Other amendments that seek to separate money accrued after May 9, 2003, to avoid contract concerns are #6, #14(1)(b), and #15(2).

**Technical note #3** addressed through changes to the timing of transfers to an as-needed basis - **Amendments #3, #4. #7. #8,** and **#9.** 

Technical note #4 addressed by Amendments #8 and #9.

Technical note #5 addressed by striking word surplus in Amendment #4. reserve-to-surplus ratio of 2.5 to 1 is in the range set by Montana State Fund's independent actuary for a financially sound company.

Technical note #6 addressed by including 39-71-2330, Amendment #14, and noting that old state fund liability is an obligation of the state fund but only to the extent described in section 3. Goes with new amendments #9 and #12 to clear up concern about rates when invested. The concern expressed about taking future investment earnings is unfounded because the effort is only to take past investment earnings and any excess funds that may develop as indicated by greater than a 2.5 to 1 reserve to surplus ratio. The revision to avoid a lump-sum transfer to provide for an as-needed transfer to the old fund account is intended to avoid concerns about the money leaving the State Fund's coffers until needed.

Amendment #13 requires transfer before dividends. This allows a transfer and dividend in years when surplus is greater than the 2.5 to 1 reserve-to-surplus ratio. Prior to 1997, the board could issue "dividends" only to offset the liability of the old fund. If OK earlier, why not now?